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Paper No. 10

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APR 26 1999

In re Reissue Application of :
Kelderman :
Reissue Application No. 08/900,561 :
Filed: July 25, 1997 :
Original Patent No. 5,452,949 :
Issue Date: September 26, 1995 :
For: TRACK SYSTEM FOR VEHICLES :

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ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed April 20, 1999 requesting to accept as originally filed in this reissue application the accompanying three (3) pages of the specification of the original letters patent, which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.173.

The petition is granted.

Inspection of the record reveals the first three pages of the original letters patent were apparently not included with the reissue application papers deposited with the PTO on July 25, 1997. Nevertheless, neither a Notice of Missing Parts, nor a Notice of Omitted Items was sent to applicant to inform applicant of the oversight.

35 USC 251 provides that applications for reissue shall comply with the other provisions of this title, and 35 USC 111(a)(2)(A) requires that a complete application shall include "a specification as prescribed by section 112 of this title." Nevertheless, the above-noted three missing pages of the reissue specification, much less the entire specification, drawings, and patented claims, were contained in the original Letters Patent, and, as such, were on file with the Patent and Trademark Office on the date the above-captioned application papers for reissue of the above-noted patent were deposited. As such, this reissue application, as filed, is considered to have included "a

specification" within the meaning of the statutes and regulations, for purposes of obtaining a filing date.

So construed, the instant petition is being treated as a request to waive, under the extraordinary circumstances of this case, the regulations to the extent they require that, on filing, "the specification of the reissue application must include the entire specification and claims of the patent." On petition, applicant's delay in submitting the entire specification of the reissue application may be excused.

Nevertheless, inspection of the reissue declarations of record reveals that, as required by 37 CFR 1.63, such do not execute the instant amended, now complete reissue application; rather, such only refer to the specification as filed which lacked the above-noted three pages of specification. A supplemental declaration to correct this effect should be promptly filed. As this case has been allowed, receipt of the supplemental declaration will not be acknowledged. See MPEP 603.01.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.



Brian Hearn

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Office of Petitions

Office of the Deputy Assistant Commissioner
for Patent Policy and Projects